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8 Attorneys for Defendants United States of America;
Daniel Werfel, in his official capacity as Commissioner
9 of the United States Internal Revenue Service;
the United States Internal Revenue Service;
10 Janet Yellen, in her official capacity
as Secretary of the Treasury;
11 the United States Department of Treasury

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16 Attorney for Plaintiff

17 UNITED STATES DISTRICT COURT
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA
19 EASTERN DIVISION
20

21 SOUTHERN CALIFORNIA
EMERGENCY MEDICINE, INC.,

22 Plaintiff,

23 v.

24 DANIEL WERFEL, et al.,

25 Defendants.
26
27
28

No. 5:23-cv-02450-FMO-DTB

Joint Stipulation Responding to Order to
Show Cause Re: Dismissal Re: Lack of
Prosecution (ECF 22); [Proposed] Order

Hon. Fernando M. Olguin

1 The United States of America and the other named defendants in this action;
2 Daniel Werfel, in his official capacity as Commissioner of the United States Internal
3 Revenue Service; the United States Internal Revenue Service; Janet Yellen, in her
4 official capacity as Secretary of the Treasury; the United States Department of the
5 Treasury (“Defendants”) and, Plaintiff, Southern California Emergency Medicine, Inc.,
6 hereby respond to the Court’s Order to Show Cause Re: Dismissal Re: Lack of
7 Prosecution (Doc. 22) and stipulate as follows:

8 1. Plaintiff filed its initial complaint in this case on December 1, 2024. (Doc.
9 1.)

10 2. The complaint was served on the Defendants on December 18, 2024.

11 3. This Court entered an Order to Show Cause requiring Plaintiff to “file a
12 First Amended Complaint setting forth sufficient allegations to establish venue” on
13 December 21, 2023. (Doc. 16.)

14 4. Plaintiff filed its first amended complaint in response to the Order to Show
15 Cause on December 27, 2023. (Doc. 17.)

16 5. The first amended complaint was served on the Defendants on January 2,
17 2024.

18 6. The response of the Defendants to the first amended complaint was due
19 February 16, 2024.

20 7. On February 6, 2024, the parties met and conferred pursuant to Local Rule
21 7-3 and this Court’s Initial Standing Order regarding a potential motion to dismiss to be
22 filed on February 16, 2024, by the United States. The United States contends that it is
23 the only proper party defendant to this suit and intends to argue in its motion to dismiss
24 that the other Defendants must be dismissed from the action.

25 8. On February 7, 2024, the parties entered a stipulation (Doc. 19) allowing an
26 additional 21 days for the United States to respond to the first amended complaint to
27 provide counsel time to evaluate facts potentially dispositive to this matter, provide the
28

1 parties additional time to further meet and confer regarding the motion to dismiss, and
2 give Plaintiff time to consider amending its first amended complaint.

3 9. Based on that stipulation, on February 9, 2024, this Court entered an order
4 (Doc. 20) extending the deadline for the United States to respond to the first amended
5 complaint to and including Friday, March 8, 2024.

6 10. The parties intended for that extension of the time to apply for all
7 Defendants, not just the United States. That extension allows the United States to file a
8 motion to dismiss that consolidates argument by all Defendants as a group.

9 11. On February 26, 2024, the parties met and conferred regarding the
10 Plaintiff's intention to file a second amended complaint to address at least some of the
11 issues identified by the United States during the parties' conference on February 6, 2024.
12 Plaintiff has not yet determined the full scope of appropriate changes in the second
13 amended complaint.

14 12. Defendants and Plaintiff intend to enter a stipulation regarding the filing of
15 a second amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(2) and
16 this Court's Initial Standing Order. Plaintiff intends to file its stipulation along with the
17 Second Amended Complaint pursuant to Local Rule 15-1 on or before March 8, 2024.

18 13. Resolving the issue of whether defendants other than the United States are
19 proper parties to this action, either through the second amended complaint or motion to
20 dismiss, would conserve resources and allow this case to proceed efficiently.

21 14. The parties have conferred on these scheduling issues with the goal of
22 promoting judicial economy.

23 15. The parties' diligence in discharging their obligations to meet and confer
24 under the Local Rules and this Court's Initial Standing Order also demonstrate that this
25 action should not be dismissed for lack of prosecution.

26 16. The parties respectfully request that the Court find that the parties have
27 demonstrated good cause and discharge its show cause order.

1 17. A proposed order is attached.

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3 IT IS SO STIPULATED.

4
5 February 27, 2022

Respectfully submitted,

6 /s/ Melissa Briggs

7 E. MARTIN ESTRADA
8 United States Attorney
9 THOMAS D. COKER
Assistant United States Attorney
Chief, Tax Division

10 MELISSA BRIGGS
11 Assistant United States Attorney

12 Attorneys for Defendants
13 UNITED STATES OF AMERICA;
14 DANIEL WERFEL, in his official capacity
15 as Commissioner of the United States
16 Internal Revenue Service; the UNITED
17 STATES INTERNAL REVENUE
18 SERVICE; JANET YELLEN, in her official
19 capacity as Secretary of the Treasury; the
20 UNITED STATES DEPARTMENT OF
21 TREASURY

22 /s/ Peter A. Arhangelsky
23 Peter A. Arhangelsky
24 Counsel to Plaintiff Southern California
25 Emergency Medicine, Inc.

26 Pursuant to Local Civil Rule 5-4.3.4(a)(2)(i), I hereby attest that Peter A. Arhangelsky,
27 counsel for Plaintiff, on whose behalf this filing is jointly submitted, has concurred in
28 this filing's content and has authorized me to file this document.

29 /s/ Melissa Briggs
30 Melissa Briggs